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HIGH COURT OF CHHATTISGARH: BILASPUR

Writ Petition (C) No. 4991 of 2007

PETITIONER Mahant Shekhar Sharan Deo, aged about 16 years Guru Shri Mahant Ramsharan Deo, Son of Shri Vijay Kishore Goswami, Minor through: The Natural Guardian Shri Vijay Kishore Goswami, through the Power of Attorney Shri Vivekanand Singh, aged about 45 years, son of Shri Yudhishthir Singh, resident of Village and Post Baba Mohtara, Tahsil Bemetara, District Durg (CG).

Versus

RESPONDENTS

1) State of Chhattisgarh, through the Secretary, Public Works Department (B&R) Mantralaya, D.K.S. Bhawan, Raipur,(CG).

2) The Sub Divisional Officer, (B&R), Bemetara Sub Division Bemetara, District Durg (CG).

3) The Sub Divisional Officer and Sub Divisional Magistrate, Bemetara, District Durg (CG).

(Writ Petition under Article 226 of the Constitution of India)

SB: Hon'ble Mr. Satish K. Agnihotri, J.

Present: Shri P.K.C. Tiwari, Sr. Advocate with Shri A.K. Mishra, counsel for the petitioner.
Shri Vivek Sharma, Panel Lawyer for the State.

ORDER

(Passed on 20th August, 2007)

Learned counsel appearing for the petitioner submits that the land in dispute belongs to the petitioner as he has acquired the ownership right over the land by purchase of one portion from Dukhan Das in the year 1949 and one portion from Dehra Umar in the year 1971. The respondents, without affording proper opportunity of hearing to the

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petitioner to establish his case, have proceeded to take steps for demolition of the structure standing on the said land on the ground that the petitioner's possession over the property is an encroachment.

2) Be that as it may, it involves the disputed questions of facts whether it is an encroachment or it is owned by the petitioner, cannot be decided by this Court on the basis of affidavits and other documents. Learned counsel appearing for the petitioner further submits that the demolition may take place at any point of time.

3) In the facts situation of the case, the respondents are directed not to take any steps for demolition of the property in dispute for a period of ten days. In the meantime, the petitioner is at liberty to take recourse to other alternative forum including civil court for appropriate relief, if so advised.

4) In view of the above, this petition is disposed of.

Sd/-
Satish K. Agnihotri
Judge

raju